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LUCE, FORWARD, HAMILTON & SCRIPPS LLP

MAR 05 2008

ATTORNEYS AT LAW • FOUNDED 1873

DEL MAR GATEWAY, 11988 EL CAMINO REAL, SUITE 200 • SAN DIEGO, CALIFORNIA 92130-2594
TELEPHONE 858.720.6300 • FACSIMILE 858.720.6306

FACSIMILE DOCUMENT

DATE: March 5, 2008

TO: SPRE Henry Yuen

FIRM: USPTO

CITY, STATE: Alexandria, VA

FAX TELEPHONE NO.: 571-273-4856

CONFIRMING NO.: _____

FROM: Jason Berry

DIRECT DIAL: 858.720.6369 DIRECT FAX: 858.523.4313

USER/CLIENT/MATTER: 20018 / 35130-1050

TRANSMITTING: 13 PAGES (including cover page)

ADDITIONAL COMMENTS OR INSTRUCTIONS:

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TIME/DATE TRANSMITTED BY OPERATOR: March 5, 2008 at _____

(TO BE COMPLETED BY SENDER)

ATTORNEY: Jason Berry

20018 / 35130-1050

(USER/CLIENT/MATTER NUMBER)

(TO BE COMPLETED BY OPERATOR)

TIME: _____

DATE: March 5, 2008

OPERATOR: _____

FAX TELEPHONE NO.: 571-273-4856

CONFIRMING NUMBER: _____

RECIPIENT'S NAME: SPRE Henry Yuen

PAGES TRANSMITTED: 13

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MAR 05 2008

NVS-1050 (31530-01050)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Michael HOGENDIJK
Application No. : 10/772,840 Confirmation No.: 6012
Filed : February 4, 2004
For : RIBBON-TYPE VASCULAR PROSTHESIS HAVING STRESS-RELIEVING ARTICULATION AND METHODS OF USE
Group Art Unit : 3773
Examiner : Vy Q. Bui

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION BASED ON FAILURE TO RECEIVE OFFICE ACTION

Dear Sir:

Applicant hereby petitions the Commissioner to resend the Office Action dated October 18, 2007 in the above-identified patent application and to reset the time period in which to respond.

CERTIFICATE OF MAILING/TRANSMISSION

I hereby certify that on the date indicated below, this correspondence and anything being referred to as enclosed herein is being:
 deposited with the United States Postal Service via first class mail with sufficient postage in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450; or transmitted via facsimile to the United States Patent and Trademark Office, facsimile number: _____; or transmitted via the United States Patent and Trademark Office electronic filing system.

Date: March 5, 2008

Signature: Jason Berry
Name: Jason Berry

S/N 10/772,840
Petition to Revive

After a thorough search of the docket record and file jacket, we hereby attest that the Office Action was never received.

In support of the petition, Declarations by Mr. Michael DeHaemer and Ms. Janelle Humphrey are submitted describing events surrounding the discovery of the missing Office Action.

Accordingly, it is respectfully requested that the outstanding Office Action be reissued and the time to respond be reset.

Applicants believe there are no fees due at this time. In the event a fee applies to this matter, please charge our Deposit Account No. 50-2298, in the name of Luce, Forward, Hamilton & Scripps LLP.

Dated: March 5, 2008

Respectfully submitted,



Michael J. DeHaemer, Jr.
Reg. No. 39,164
Attorney for Applicants

LUCE, FORWARD,
HAMILTON & SCRIPPS, LLP
11988 El Camino Real, Suite 200
San Diego, California 92130
Tel: (858) 720-6300
Fax: (858) 720-6306

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MAR 05 2008

Atty. Docket No. 31530-1050

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:) Group Art Unit: 3773
Michael HOGENDIJK)
Serial No.: 10/772,840) Examiner: Vy Q BUI
Filed: February 4, 2004) Confirmation No.: 6012
For: RIBBON-TYPE VASCULAR)
PROSTHESIS HAVING STRESS-)
RELIEVING ARTICULATION AND)
METHODS OF USE)

San Diego, California

Mail Stop: Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

DECLARATION

I, Janelle Humphrey, declare:

1. I work in the capacity of a Patent Prosecution Paralegal with Luce, Forward, Hamilton & Scripps, LLP, with a business address of 11988 El Camino Real, Suite 200, San Diego, California 92130. My home address is 6346 Osler Street, San Diego, California 92111.
2. I make this declaration in support of the accompanying petition in the above-identified patent application for revival due to failure to reply to an Office Action dated October 18, 2007.
3. On February 22, 2008, Mr. DeHaemer, an attorney at the firm, gave me a chart generated using data from, private PAIR website identifying all applications which have had a status change within the prior six months.
4. On February 22, 2008, by comparing the chart identified above to our docketing system, I discovered that an Office Action was mailed on October 18, 2007, for United States Patent Application No. 10/772,840 (our reference 31530-1050), but there was no record of the Office Action in the docket system.
5. The mail, when it arrives at Luce Forward, is opened, date stamped, and entered into our back-up docketing system by our department head legal secretary. These documents are then hand delivered to me for entry into our primary docket system. I have examined both

docketing systems and neither docketing system has an entry for an Office Action mailed October 18, 2007, for United States Patent Application No. 10/772,840.

6. Enclosed with this Declaration please find, as Exhibit 1, a Due Date report from the docket system of all items due during two weeks surrounding the January 18, 2008, due date of the non-received Office Action. This report is included to indicate that mail is docketed on a consistent and timely basis. Although the report has an entry for the non-received Office Action, the Office Action was not entered into the docket system until February 22, 2008. To protect client and application confidentiality, client names and other confidential information on the Due Date report have been redacted.

7. Also enclosed, Exhibit 2, is a copy of an Actions Due page of the docket record concerning the non-received Office Action. As indicated in the "Date Created" field, the entry for the Office Action was entered into the docket system on February 22, 2008, the date which I discovered the missing Office Action.

8. Finally, enclosed is a copy of the Remarks section, Exhibit 3, of the docket record for the present case. There are no entries between the mailing date of the non-received Office Action (October 18, 2007) and the date I discovered the Office Action.

9. The delay in filing the required reply to the Office Action prior to the due date was unavoidable. Luce Forward uses great care and diligence in maintaining our docket systems. We exercise this care and rely upon the ordinary and trustworthy agency of the United States Postal Service as an instrumentality to conduct the important function of delivering correspondence from the United States Patent and Trademark Office.

10. I hereby declare that all statements made of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of title 18 of the United States Code and that such willful statements may jeopardize the validity of the application or any patent issued thereon.

Signature:



Name: Janelle Humphrey

Date: March 5, 2008

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Due Date List By Date						
14-Jan-2008 To 25-Jan-2008						
Due Date	Action Due Indicator	Status	App Number	App Date	Attys	
18-Jan-2008	3 Month Due Date	Case Number/SubCase Country	Client	Pat Number	Iss Date	
Due Date	US-Final Office Action	31530-1050 United States of America	Published	10/772,340	04-Feb-2004	MJD
		<i>Title:</i> RIBBON-TYPE VASCULAR PROSTHESIS HAVING STRESS-RELIEVING ARTICULATION AND METHODS OF USE (NVS-1050)				
19-Jan-2008	2 Months Until Response Due	30238-444 Foreign Office Action	Pending	2,500,674	12-Dec-2003	MPB
Reminder		Canada				
20-Jan-2008	disclosure	30238-1087 Chile	Published	1897-2007	27-Jun-2007	MPB
Due Date		<i>Title:</i> MULTIPURPOSE EXERCISE SYSTEM				
20-Jan-2008	DDL Year 4 MF w/surcharge	31981-6/P02 United States of America	Granted	09/228,929 6,681,398	12-Jan-1999 20-Jan-2004	MPB KAC
Due Date	DDL Year 4 MF	<i>Title:</i> Systems, devices and methods for reviewing selected signal segments				
21-Jan-2008	2 mo. / Annuity Due	26015-P03 Belgium	Granted	0746870	DEH PKH KH	
Reminder	Annuity	<i>Title:</i> IRRADIATION SYSTEM UTILIZING CONVEYOR-TRANSPORTED ARTICLE CARRIERS				
21-Jan-2008	3 mo. / Annuity Due	30289-1222 European Patent Convention	Published	05738690.6	21-Apr-2005	MPB
Reminder	Annuity	<i>Title:</i> METHOD AND APPARATUS FOR WORD OF MOUTH SELLING VIA A COMMUNICATIONS NETWORK				
21-Jan-2008	1 Month to Final OA Due Date	31530-1100 United States of America	Published	11/154,056	15-Jun-2005	MJD
Reminder	US-Final Office Action	<i>Title:</i> PROSTHESIS, DELIVERY SYSTEM AND METHOD FOR NEUROVASCULAR ANEURYSM REPAIR [NVS-1100]				

Wednesday, March 05, 2008

Due Date List By Date

Page: 3

		14-Jan-2008	To	25-Jan-2008
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Due Date Indicator	Action Due	Case Number/SubCase Country	Status Client	App Number Pat Number	App Date Is Date	Atlys
23-Jan-2008	Action Type 3 mo to non-prov/FF DDL	34306-2P03	Pending	60926,054	23-Apr-2007	PKH
Due Date	1 mo to non-prov/FF DDL	United States of America				MIM

		24-Jan-2008	1st Extension Final OA Due	30289-1240	Published	11/04/4,544	26-Jan-2005	MPB
Due Date	US-Final Office Action		United States of America					

Title: METHOD AND APPARATUS FOR CONSTRUCTING A NETWORKING DATABASE AND SYSTEM PROACTIVELY

		24-Jan-2008	3 Months Until Response Due	31188-1063	Published	200262035	07-Mar-2002	MJD
Reminder	Foreign Office Action		Japan					

Title: SYSTEMS AND METHODS FOR CONDUCTING ELECTRONIC COMMERCE TRANSACTIONS REQUIRING MIRCOPAYMENT [GTX-001 CIP3]

		25-Jan-2008	3 Months Until Response Due	30238-10617	Pending	IAP 20070167	29-Sep-2005	MPB
Reminder	Foreign Office Action		Uzbekistan					

Actions Due

Wednesday, March 05, 2008

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Case Number: 31530-1050**SubCase:****Country:** US United States of America**Case Type:** CIP**Status :** Published**Filing Date:** 04-Feb-2004**Action Type:** US-Final Office Action**Base Date:** 18-Oct-2007**Application #:** 10/772,840**Response sent date:**

Action(s) Due	Due Date	Indicator	Taken
1 Month to Due Date	18-Dec-2007	Reminder	
3 Month Due Date	18-Jan-2008	Due Date	
1st Extension f/Final OA	18-Feb-2008	Due Date	
2nd Extension f/Final OA	18-Mar-2008	Due Date	
6 Month Final OA Date	18-Apr-2008	Final	

User ID: jhumphrey**Date Created:** 22-Feb-2008**Last Update:** 22-Feb-2008**Exhibit 2**

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Country Application

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Page: 1

Case Number: 31530-1050

Country: US

SubCase:

Invention Title: RIBBON-TYPE VASCULAR PROSTHESIS HAVING STRESS-RELIEVING ARTI

Client: NovoStent Corporation

United States of America

Case Type: CIP

Application Status: Published

Application Number: 10/772,840

Filing Date: 04-Feb-2004

Publication Number: 2004-0158314

Publication Date: 12-Aug-2004

Patent Number:

Issue Date:

Parent/PCT Number: 10/342,427

Parent/PCT Date : 13-Jan-2003

Parent Issue Number:

Parent Issue Date :

Tax Schedule: LE

Expiration Date:

Confirmation #: 6012

Patent Term Adjustment: 0

Agent:

Agent Reference #:

Family Reference:

Remarks: This application is a CIP of 10/342,427 filed 01-13-2003 (31530-1010) which claims priority to 60/436,516 filed 12-24-2002

05-11-2004: Received filing receipt. Reported to client.

05-25-2004: Five (5) sheets of formal drawings filed.

04-15-2005: Supplemental IDS w/42 cited references.

03-28-2007: Received Office Action w/mailing date of March 26, 2007.

06-15-2007: Reviewed ISR for co-pending PCT, no IDS needed, reference previously cited.

06-21-2007: Email to client enclosing draft response to OA.

06-25-2007: Email from client approving our draft response and instructed us to proceed with the filing of the Response to OA.

06-26-2007: Response to OA e-filed with the USPTO.

2-22-2008: received OA from USPTO dated 10-18-2007. Due 01-18-2008 DDL 04-18-2008. This application was lost in the mail, but was found when looking through PAIR.

03-03-2008: Filed a Rqst fo r the OA to be remailed and the clock to be restarted.

Exhibit 3

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Country Application

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User ID: jberry

Date Created: 10-Feb-2004

Last Update: 03-Mar-2008

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MAR 05 2008

Atty. Docket No. 31530-1050

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Michael HOGENDIJK
Serial No.: 10/772,840
Filed: February 4, 2004
For: RIBBON-TYPE VASCULAR
PROSTHESIS HAVING STRESS-
RELIEVING ARTICULATION AND
METHODS OF USE

) Group Art Unit: 3773
)
)
)
)
)
)

San Diego, California

Mail Stop: Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

DECLARATION

I, Michael J. DeHaemer, Jr., declare:

1. I am an Associate Attorney at Luce, Forward, Hamilton & Scripps, LLP, and am registered to practice before the USPTO. I have a business address of 11988 El Camino Real, Suite 200, San Diego, California 92130. My home address is 11134 Tampere Ct., San Diego, CA 92131.

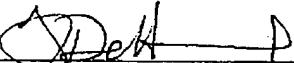
2. I make this declaration in support of a petition submitted in the above-identified patent application for non-receipt of a Final Office Action dated October 18, 2007.

3. On or about February 22, 2008, I accessed private PAIR and downloaded the XML file identifying applications which have had a status change within the prior six months. Using a simple script, I extracted the data from the XML file and created a chart showing the recent changes. I gave the chart to Janelle Humphrey to check against our docket system.

4. Ms. Humphrey later notified me that the data from private PAIR showed that a Final Office Action had been mailed in the above-identified application, but that there was no record of the Office Action in the file or docket system. A check of our secondary docket system confirmed that we had never received the Office Action.

5. After consulting the MPEP, the USPTO Inventor's Assistance Center, and Henry Yuen (TC-3700 SPRE), I filed the accompanying petition requesting that the Office Action be re-mailed and that the time to respond to be reset.

6. I hereby declare that all statements made of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of title 18 of the United States Code and that such willful statements may jeopardize the validity of the application or any patent issued thereon.

Signature: 

Name: M J DeHaemer, Jr., Reg. No. 39,164

Date: March 5, 2008

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